NECA

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Washington, D.C. 20005

**Joe A. Douglas**
Vice President Government Relations

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October 16, 2007

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re.: Notice of *Ex Parte* Meeting
Intercarrier Compensation Reform, CC Docket No. 01-92

Dear Ms. Dortch:

On October 15, 2007 James J. Kail, President and CEO of Laurel Highland Telephone Company (LHTC), Jim Frame, Vice President Operations, NECA, and the undersigned met with Ian Dillner, Senior Legal Adviser to Chairman Martin. The subject of the meeting was the application of access charges to interconnected VoIP provider customers of LHTC and other ILECs.

Specifically, Mr. Kail made the following points:

- LHTC is experiencing dramatic increases in "VoIP originated" access traffic terminating on its network for which it receives no compensation.
- LHTC cannot verify the VoIP nature of the terminating traffic received from supposed VoIP carriers such as Choice One, since such traffic is delivered via LHTC's traditional telephone trunks.
- Providing the functional equivalent of interexchange telephone service, VoIP providers such as Choice One not only are avoiding payment of access charges, there are indications they may be enticing other carriers to migrate their traffic to the "free" network not only to the detriment of LHTC, but also to the detriment of the traditional interexchange carriers who pay access charges. For example, in September 2007 Choice One's traffic terminated on LHTC's network increased by approximately 32 percent over the previous month – while it continues to refuse to pay any compensation for what it alleges to be "VoIP originated" traffic.
- Continued indecision about applying access charges to interconnected VoIP carriers by the Commission will lead to serious erosion of LHTC's access revenue base and ultimately could have serious consequences for continued investment in its network.

VoIP providers continue to refuse to pay access bills for interexchange traffic they admit is being terminated on ILEC networks. NECA member companies across the country are receiving letters to this effect from VoIP providers. (See the attached copy of letters from CommPartners to 3 Rivers Telephone Company in Fairfield, Montana.)

Pending resolution of the IP-enabled services proceeding, the FCC has applied the following regulatory requirements to interconnected VoIP providers: 1) CALEA; 2) E911; 3) USF contributions; 4) CPNI; 5) TRS provision and contributions; and 6) regulatory fees. The Commission should now take the logical next step, clarifying that access charges apply under current rules to interconnected, interexchange voice calls irrespective of the technology used to provide the service.

Sincerely,

/s/ Joe A. Douglas

Cc: Ian Dillner
James J. Kail

Attachments

CommPartners™

THE IP NETWORK AND VoIP SOLUTIONS PROVIDER

Kristopher E. Twomey
Regulatory Counsel
CommPartners
3291 N. Buffalo Drive, Suite 150
Las Vegas, NV 89129
P: 702.367.8647 ext. 1079
F: 702.365.8647

RECEIVED
MAY 29 2007

May 25, 2007

3 Rivers Telephone
Po Box 429
422 2nd Avenue South
Fairfield, MT 59436

Re: Disputed invoice(s). Please see attached

To Whom It May Concern:

We are in receipt of an invoice for the billing account number ("BAN") referenced above. Please be advised that the billed party, CommPartners, is disputing the invoice. Based on CommPartners records, it appears that 97.5% of the originated traffic is interstate in nature ("PIU"), with 2.5% as local ("PLU"). CommPartners has not delivered any circuit-switched telephone calls to your company during the time period referenced in the invoice. According to CommPartners customer detail records, every call originated by one of our end users and terminated by your company, was initiated as an Internet protocol ("IP") stream, i.e., voice over Internet protocol ("VoIP'). Because all the traffic listed on this invoice represents VoIP transmissions rather than circuit-switched telephone calls, your company is not entitled to collect access charges.

CommPartners understands that this issue is currently the object of much debate at the Federal Communications Commission ("Commission"), specifically in the *IP Enabled Services* docket[1] and the *Intercarrier Compensation reform* docket[2]. In the *AT&T Declaratory Ruling*[3], the Commission specifically noted that although AT&T's "IP in the middle" services were subject to access charges, the FCC was not applying this to IP-originated calls. The Commission reserved the right to do so in the future, noting that its decision "in no way precludes the Commission from adopting a fundamentally different approach when it resolves the IP services rulemaking, or when it resolves the *Intercarrier Compensation* proceeding." This specific issue is also the subject of a number of other pending petitions at the Commission. After these proceedings are completed and their results become final and non-appealable, CommPartners will comply with any federal or state requirements to pay access charges. Until that time, however, CommPartners refuses to pay access charges on any interstate IP-originated traffic terminated by your company. As a compromise, CommPartners will agree to pay tariffed local termination rates to your company for the 2.5% PLU traffic.

Should there be any questions or additional information required, please do not hesitate to contact me at 702 367-8647 ext. 1079. Thank you.

Sincerely,

Kristopher E. Twomey
Regulatory Counsel

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[1] *In the Matter of IP Enabled Services, Notice of Proposed Rulemaking*, WC Docket No. 04-36 (Released March 10, 2004).

[2] *In the Matter of Access Charge Reform, Notice of Proposed Rulemaking*, CC Docket No. 96-488.

[3] *Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services are Exempt from Access Charges, Order*, WC Docket No. 02-361, FCC 04-97 (April 21, 2004) ("*AT&T Declaratory Ruling*").

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RECEIVED
SEP 28 2007

September 25, 2007

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Po Box 429
422 2nd Avenue South
Fairfield, MT 59436

Re: Disputed invoice(s). Please see attached

To Whom It May Concern:

We are in receipt of an invoice for the billing account number ("BAN") referenced above. Please be advised that the billed party, CommPartners, is disputing the invoice. Based on CommPartners records, it appears that 90% of the originated traffic is voice over Internet protocol ("VoIP"), with 10% as traditional circuit-switched ("TDM"). According to CommPartners customer detail records, 90% of traffic originated by one of our end users and terminated by your company, was initiated as an Internet protocol ("IP") stream. Because this traffic represents VoIP transmissions rather than circuit-switched telephone calls, your company is not entitled to collect access charges on these calls. CommPartners will pay access charges on the 10% circuit-switched calls.

CommPartners understands that this issue is currently the object of much debate at the Federal Communications Commission ("Commission"), specifically in the *IP Enabled Services* docket[1] and the *Intercarrier Compensation Reform* docket[2]. In the *AT&T Declaratory Ruling*[3], the Commission specifically noted that although AT&T's "IP in the middle" services were subject to access charges, the FCC was not applying this to IP-originated calls. The Commission reserved the right to do so in the future, noting that its decision "in no way precludes the Commission from adopting a fundamentally different approach when it resolves the IP services rulemaking, or when it resolves the *Intercarrier Compensation* proceeding." This specific issue is also to be addressed as part of the Missoula Plan proceeding currently pending at the FCC. After these proceedings are completed and their results become final and non-appealable, CommPartners will comply with any federal or state requirements to pay access charges. Until that time, however, CommPartners refuses to pay access charges on any interstate IP-originated traffic terminated by your company.

Should there be any questions or additional information required, please do not hesitate to contact me at 702 367-8647 ext. 1079. Thank you.

Sincerely,

Kristopher E. Twomey
Regulatory Counsel

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